

Court of Appeals, State of Michigan

ORDER

People of MI v George Franklin Choya Dobra

Docket No. 257955

LC No. 2002-183260-FH

Pat M. Donofrio

Presiding Judge

Mark J. Cavanagh

Henry William Saad

Judges

The Court orders that the motion to waive fees is GRANTED.

The delayed application for leave to appeal is considered and, the Court orders, pursuant to MCR 7.205(D)(2), that the June 28, 2004, order of the Oakland County Circuit Court denying defendant's motion for appointment of substitute appellate counsel hereby is REVERSED. The circuit court should have granted defendant's untimely request where a delayed application for leave to appeal was available to defendant at the time he moved for counsel. See MCR 6.425(F)(1)(b); *People v Cottrell*, 201 Mich App 256, 259; 506 NW2d 12 (1993). On remand, the circuit court shall appoint counsel to assist defendant in postconviction and appellate proceedings upon a proper showing of indigency, MCR 2.002. Given that more than 12 months have passed since defendant's convictions, appellant may not challenge the convictions by filing a delayed application under MCR 7.205, but may only challenge the order by filing a motion for relief from judgment under MCR 6.508(D). The case is REMANDED for further proceedings consistent with this order.

The Court retains no further jurisdiction.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 14 2005

Date

Sandra Schultz Mengel
Chief Clerk